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Remarks

Reconsideration of the above-captioned application is respectfully requested. Claims 1, 4, 11, and 19 have been rejected for lacking an enabling disclosure based on the allegation that the specification does not teach how the gateway screen can be displayed when the TV is turned off. Claims 1-3, 7-10, 14-18, 23, and 25-27 have been rejected as being anticipated by Kikinis, USPN 5,929,849, and the remaining previously pending claims have been rejected as being unpatentable over Kikinis in view of various and sundry takings of "official notice".

The fact that Applicant has focussed its comments distinguishing the present claims from the applied references and countering certain rejections must not be construed as acquiescence in other portions of rejections not specifically addressed.

To overcome the Examiner's rejections, independent apparatus Claim 1 has been amended to recite that the gateway screen is displayed when the interactive television initially is turned on, as disclosed on, e.g., page 13, first and second paragraphs (disclosing that the DO loop which results in displaying the gateway screen commences in response to, for instance, the user turning on power to the TV). Independent Claim 2 has been amended to recite a gateway screen that is displayed by the interactive television at least upon initial energization of the television, whereas independent Claim 9 now sets forth that the gateway screen is automatically displayed upon energization of the television. As now amended, independent Claim 16 recites displaying a gateway screen in response to a user turning the television on. Dependent Claims 4, 11, and 19 have been amended to overcome the Section 112 rejections. Claims 1-27 remain pending.

Rejections Under 35 U.S.C. §112, First Paragraph

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Claim 1 has been rejected under 35 U.S.C. §112, first paragraph as lacking enabling disclosure, in that the examiner alleges that displaying a screen is not enabled on a TV that is deenergized. The problem is the previous use of the term "when", which the examiner is reading as a synonym for "during" instead of as a synonym for "at which time".

To clarify the claims and to more precisely reconcile them with the specification, page 13, lines 17 and 18 (disclosing that the gateway screen can be the last screen displayed "when the TV is deactivated", plainly referring to the short time period between receiving an "off" signal and closing down various computer-related processes before actually shutting off power to the TV), the rejected claims have been amended to specify displaying the gateway screen in response to receiving a signal to deenergize.

Rejections Under 35 U.S.C. §102

Claims 1-3, 7-10, 14-18, 23, and 25-27 have been rejected under 35 U.S.C. §102 as being anticipated by Kikinis, in which nothing teaches or suggests a gateway screen that is initially displayed in response to the user energizing the TV. The rejections under this section are overcome.

Rejections Under 35 U.S.C. §103

Claims 4-6, 11-13, 19-22, and 24 have been rejected under 35 U.S.C. §103 as being unpatentable over Kikinis in view of various takings of official notice. For the reasons above, the claims are patentable. Further, MPEP §2144.03 advises that the taking of official notice must be "rare", and that it is most inappropriate to take official notice of technical facts. The question is not just whether various elements are well known, in which Applicant does not acquiesce, but also where the prior art supplies the motivation to

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combine the allegedly well-known features with the system of Kikinis to arrive at the presently claimed combinations of structures and methods. That is, regardless of how an element is identified in the prior art, i.e., using a reference or "official notice", the remaining task for an examiner is to show why the prior art suggests the element in the combination claimed.

For each and every taking of official notice, should the rejections be persisted in Applicant hereby requests not only a prior art showing under MPEP §2144.03 but also the requisite prior art suggestion to combine the allegedly well-known feature in the combination being rejected.

The Examiner is cordially invited to telephone the undersigned at (619) 338-8075 for any reason which would advance the instant application to allowance.

Respectfully submitted,



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